

packer, or distributor and (2) an accurate statement of the quantity of contents; 502(f) (1)—the labeling of a number of the articles failed to bear adequate directions for use and they were not exempt from that requirement since they were subject to the provisions of 503(b) (1) and their labels failed to bear an identifying lot or control number from which it was possible to determine the complete manufacturing history as is required by regulations, and the labeling of a number of the articles whose expiration dates had expired also failed to bear adequate directions for use after their expiration dates; and 503(b) (4)—the articles of drug were subject to the provisions of 503(b) (1) and the labels of a number of the articles failed to bear the statement "Caution: Federal law prohibits dispensing without prescription."

DISPOSITION: 12-27-61. Default—destruction.

**DRUGS AND DEVICES ACTIONABLE BECAUSE OF FAILURE TO BEAR ADEQUATE DIRECTIONS OR WARNING STATEMENTS\***

**6916. Amphetamine tablets and capsules.** (F.D.C. No. 45434. S. No. 65-474 R.)

QUANTITY: Unknown quantities at Salemburg, N.C., in possession of DeWitt Clinton Bowman, t/a Carolina Drug Associates.

SHIPPED: Prior to 3-1-61, from outside the State of North Carolina.

LIBELED: 2-24-61, E. Dist. N.C.; amended libel 5-26-61.

CHARGE: 502(f) (1)—while held for sale, the labeling of the articles failed to bear adequate directions for use for the purpose for which they were intended and the articles were not exempt from such requirement since they were not to be dispensed in accordance with 503(b).

DISPOSITION: 1-18-62 and 1-26-62. Default—delivered for use of various hospitals.

**6917. Amphetamine tablets and capsules.** (F.D.C. No. 45533. S. Nos 65-476/7 R.)

QUANTITY: Unknown quantities at Salemburg, N.C., in possession of DeWitt Clinton Bowman, t/a Carolina Drug Associates.

SHIPPED: Prior to 3-1-61, from outside the State of North Carolina.

LIBELED: 3-1-61, E. Dist. N.C.; amended libel 5-26-61.

CHARGE: 502(f) (1)—while held for sale, the labeling of the articles failed to bear adequate directions for use for the purpose for which they were intended and the articles were not exempt from such requirements since they were not to be dispensed in accordance with 503(b).

DISPOSITION: 1-18-62. Default—delivered for use of a Federal hospital.

**6918. Nutri-Bio food supplements.** (F.D.C. No. 46814. S. Nos. 54-916 T, 55-001/4 T.)

QUANTITY: 213 ctns., containing 2 pkgs. of 13 plastic envelopes each; 53 ctns., 60 envelopes each; 48 ctns., containing 3 pkgs. of 8 envelopes each; 15 1-lb. pkgs. and 2 3-lb. pkgs., at Charlotte, N.C., in possession of T & G Enterprises.

SHIPPED: Between 8-1-61 and 11-30-61, from Beverly Hills, Calif.

LABEL IN PART: (213-ctn. lot) "Nutri-Bio dietary food supplement natural or organic Vitamins and Minerals from natural food sources \* \* \* 728 Mineral Tablets 364 Vitamin Tablets"; (53-ctn. lot) "Nutri-Bio baby-bio 60 five gram Baby-Paks 300 grams net wt.; (48-ctn. lot) "Nutri-Bio \* \* \* dietary

\*See also Nos. 6902, 6908, 6911-6915.

food supplement Protein (meatless) In Ready-To-Eat Tasty Concentrated food Wafers 480 Wafers Lemon Flavor [or "Chocolate Flavor"] \* \* \* the modern Nutri-Bio Carry-Pak \* \* \* Each Carry-Pak contains 20 protein food wafers"; and (1-lb.-pkg. and 3-lb.-pkg. lots) "Nutri-Bio \* \* \* Protein ready-to-use instant mix \* \* \* 1 Lb. net wt. [or "3 Lb. net wt."]."

**LIBELED:** 12-27-61, W. Dist. N.C.

**CHARGE:** 502(f) (1)—while held for sale, the labeling of the articles failed to bear adequate directions for use for the purposes and conditions for which they were intended, namely, the treatment and prevention of (*vitamins and minerals and baby-bio*) ulcers, colds, stiffness in fingers and joints, arthritis, loss of energy, poor circulation, nervousness, fever blisters, cancer, diabetes, overweight condition, tooth decay, gray hair, and incurable diseases, to prevent 75 percent of all diseases, and to extend life 10 to 20 years; (*Protein (meatless)* and *Protein instant mix*) loss of weight, excessive appetite, inadequate metabolism, tooth decay, to kill hunger pains, and to reduce, which were the conditions and purposes for which the articles were offered in oral statements made by William B. Gayle, a Nutri-Bio sales agent, in a sales talk at Charlotte, N.C.

**DISPOSITION:** 1-26-62. Default—portions of the articles were delivered to the Food and Drug Administration and the remainder was destroyed.

**6919. Nutri-Bio food supplement.** (F.D.C. No. 46608. S. No. 473 T.)

**QUANTITY:** 260 units and 14 units at Atlanta, Ga., in possession of Sherwood J. Gillespy, t/a V & S Sales Co., and Frank B. Wiggs, respectively. Each unit consisted of 2 ctns. enclosed in a cardboard sleeve, each ctn. containing 13 plastic envelopes of 14 tablets and 28 tablets each.

**SHIPPED:** 10-7-61, from Beverly Hills, Calif.

**LABEL IN PART:** (Ctn.) "Nutri-Bio \* \* \* Dietary Food Supplement Vitamin and Mineral Tablets 364 Mineral Tablets 182 Vitamin Tablets \* \* \* from natural food sources"; (sleeve) "Nutri-Bio dietary food supplement \* \* \* the Nutri-Pak \* \* \* Pocket carrier \* \* \* contains a 7-day supply of Nutri-Bio. This package contains 26 nutri-paks"; and (envelope) "Your Seven-day supply of Nutri-Bio dietary food supplement natural or organic Vitamins & Minerals for the entire family."

**LIBELED:** On or about 10-25-61, N. Dist. Ga.

**CHARGE:** 502(f) (1)—while held for sale, the labeling failed to bear adequate directions for use in the treatment and prevention of alcoholism, stomach ulcers, arthritis in the spine, tiredness, gray hair, gout, overweight and underweight, to put the body in absolute balance, and cancer, the conditions and purposes for which the article was offered in oral statements made on 10-5-61 and 10-6-61, by Frank B. Wiggs.

**DISPOSITION:** 12-4-61. No claimant having appeared, judgment of condemnation was entered and the article was ordered to be delivered, in part, to the Food and Drug Administration and the remainder to a public institution.

On 12-20-61, Frank B. Wiggs, claimant, filed a motion to open the default decree on the grounds that the wrong property was seized and impounded and that he, claimant, did not understand his rights relative to the libel and seizure of his property. On 1-16-62, the court entered the following order denying claimant's motion:

**MORGAN, District Judge:** "On October 25, 1961 the United States of America, through the United States Attorney for the Northern District of Georgia, filed a Libel of Information praying for the seizure and condemnation of a certain